IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2397 OF 2006

Rajkumar Shitalprasad Kaknani. ..Applicant.

V/s.

Union of India & Anr. ..Respondents.

Mr.Anil Lalla for M/s. Lalla & Lalla for applicant.

Mr.D.N.Salvi for Union of India-Respondent No.1.

Mr. K.V.Saste, APP for State.

CORAM: A.M.KHANWILKAR,J

DATE : OCTOBER 6, 2006.

P.C. :

1. Counsel for the applicant fairly submits that the applicant would be content, if the trial Court was to decide the proceedings expeditiously.

2. This Court on more than one occasion has had directed expeditious disposal of the trial. As requested by the trial Court by order dated 20th July, 2006, this Court extended time to conclude the trial before 5th December, 2006. It appears that the prosecution has already examined 14 witnesses as of now. The learned Public Prosecutor submits that prosecution may examine ten more witnesses. If so, appropriate course will be to hear the case on day to

day basis, so as to ensure that the trial is concluded and the case is finally disposed of by 5th December, 2006.

3. I have perused the detailed report submitted by the trial Court Judge dated 4th October, 2006. The trial Court has unnecessarily laboured on preparing such elaborate report, mentioning the progress of the trial on date basis. All that the trial Court was expected to respond in terms of order dated September 22, 2006 was to indicate the outer limit, that may be required to finally dispose of the trial. Be that as it may, the explanation offered by the trial Judge under his report dated 4th October, 2006 is accepted. It is however, made clear that the trial Court shall endeavour to finally dispose of the trial before the specified date i.e. 5th December, 2006, as aforesaid.

4. One startling feature, which has been observed from the report of the trial Court Judge is that, on a given day more than one part-heard case are listed for recording of evidence. The trial Court records only part of the evidence in one case and proceeds to record evidence in the next case. This process goes on till the entire evidence is

recorded in the concerned case. This procedure is, to say the least, in the teeth of the mandate of Provisions of the Criminal Procedure Code - which obligates the prosecution as well as the defence including the Court to ensure that the trial once commenced, should preferably proceed on day to day basis and not in piecemeal manner, as is the practice evolved before the lower Court. Indeed, even if more than one part heard matter are listed before the trial Court on a given date, that does not mean that the trial Court will adopt such procedure, which would negate the spirit of the Procedure provided for regarding the conduct of the trial. Suffice it to observe that in future even if more than one part heard matter is listed on a given date, the appropriate course for the trial Court will be to proceed with the hearing of the oldest part heard case chronologically and on concluding recording of evidence in that case, proceed to record evidence in the next part heard case. I hope and trust that the trial Judge will adopt appropriate corrective measures for future trials.

5. This application is disposed of on the above terms.